

100-776-2564/1

OGC 78-5696
28 August 1978

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MEMORANDUM FOR: Office of Legislative Counsel
ATTENTION :
FROM :
Assistant General Counsel
SUBJECT : H.R. 13015 ("Communications Act of 1978")
REFERENCE : Ltr to Director, OMB from D/Legislative
Reference Service, DoD, dated 1 August
1978, re views of DoD on H.R. 13015

1. You requested our comments on the referenced DoD views letter on subject legislation.

2. We have no objection to the draft letter with one exception. On page 7, in connection with Title VII, Section 704, Mr. Windus complains that the establishment of a new agency -- the National Telecommunications Agency -- with powers to develop "plans, policies and programs for telecommunications facilities, services and systems for Government agencies" is incompatible with the statutory charter of CIA and other agencies and is a "completely unacceptable concept." Although there may be some basis for this complaint, we note that similar functions are now exercised by executive branch agencies outside the intelligence community, see Executive Order 12046, 43 F.R. 13349 (17 March 1978). It may very well be possible to modify the proposal for a new agency in a manner acceptable to CIA and other agencies. In any event, if CIA wishes to object to this provision, we should do so ourselves rather than depend on DoD. We suggest that the reference to CIA be deleted from the DoD letter.

3. Not only this issue but the entire bill should be scrutinized carefully by CIA to determine its potential impact on Agency communications activities. I understand that you have provided a copy to the Office of Communications. Among the subjects on which attention should be focused are:

(1) whether the National Communications Agency should concern itself with communications systems in the national security area, and, if it does, whether the DCI should be given a special role with respect to these systems.

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(3) whether the provisions dealing with the allocation of the frequency system could be improved. (See sections 457, 458 and 707.)

4. If we conclude that there is any potential adverse impact or that the legislation presents opportunities for clarifying the authority for CIA activities, CIA itself should present its input to the Administration position and to the Congress in a manner best calculated to prevail. In this regard, I note that the 2 August legislative referral memorandum to which DoD is responding is addressed to CIA, although, to my knowledge, we never formally received this invitation. Nevertheless, I recommend that we take this opportunity to register our views if we have something to say. Moreover, since this legislation may be modified extensively, we should request that OMB consult with CIA when Administration positions are being formulated.



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